THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 24509 OF 2005

Dated 2nd November, 2007

Between:

Premkumar Sahagal and another.

…Petitioners.

The District Registrar of Hyderabad,
M.J.Road, Hyderabad – 500 001 and another.

…Respondents.

ORAL ORDER:

Though interlocutory application is listed today, but at the request of the learned counsel for parties, the writ petition itself is taken up for hearing and is being disposed of.

In this writ petition, the petitioners have questioned the order of the appellate authority passed under Section 72 of the Indian Registration Act, 1908 rejecting the appeal preferred by the petitioner on the ground of limitation.

The petitioners are the purchasers of residential house bearing MCH No.4-1-918, for a consideration of Rs.37,000/- from M/s. Perin C.Mogul, Dhun Jaikhan and Manejh K.Gardin. The sale-deed in respect of the same was presented to the second respondent for registration on 22.11.1972, but the same was kept pending and was given Pending No.303 of 1972. Thereafter, the document was returned with the endorsement "Registration refused". After prolonged correspondence and on an application filed by the petitioners for furnishing the reasons for refusal of the document for registration, by order dated 24.6.1982, the reasons for refusal were stated to be non production of the Urban Land Ceiling and Income Tax Clearance Certificates, by order dated 24.6.1982. Against the said order communicating the reasons, an appeal was filed under Section 72 of the Indian Registration Act, 1908 before the District Registrar, Hyderabad challenging the reasons assigned by the primary authority in refusing to register the document.

Heard learned counsel for the petitioners and the learned Government Pleader for Revenue.

It is submitted by the learned counsel for the petitioners

Shri M.P.Ugle that the primary authority has not communicated the order containing the reasons at the time of return of the document and only on the application of the petitioners dated 31.12.2003 and repeated requests thereafter, certified copy of the reasons was furnished on 27.11.2004 and as such the appeal was filed on 15.12.2004 which is well within the prescribed period of limitation of 30 days. In that view of the matter, the order impugned herein is not legal and is liable to be set aside. In support of his contention, learned counsel relied on a decision of this court dated 20.11.2002 rendered in Writ Petition No. 23174 of 2002.

I have perused the order passed by the appellate authority. The District Registrar rejected the appeal by merely stating that the appeal under Section 72 of the Act was preferred on 15.12.2004 whereas the limitation contemplated under Rule 165 of the rules framed under the Registration Act is 30 days. But, it is the case of the petitioner that the reasons have been communicated to the petitioners only on 27.11.2004, and, therefore, the appeal, which was filed on 15.12.2004, is well within the period of limitation. The said contention of the petitioners was not considered by the appellate authority. It is well settled that the period of limitation has to be computed only from the date of service of the order and not from the date of passing of the order. It is also so held by a learned Judge of this Court in Writ Petition No. 23174 of 2002, relied on by the learned counsel for the petitioner.

In that view of the matter, the order of the appellate authority dated 1.10.2005 is set aside and the matter is remanded back to the appellate authority for consideration afresh. The appellate authority shall consider the matter afresh by taking into consideration the plea of the petitioners in respect of limitation, and pass appropriate orders, within a period of two months from the date of the receipt of a copy of this order.

In the result, the writ petition is allowed in part to the extent indicated above. No costs.

_____

2-11-2007 **R.SUBHASH REDDY, J.**

VR.